

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

HEATHER HALBACH, et al.,)
Plaintiff(s),)
vs.)
GREAT-WEST LIFE & ANNUITY)
INSURANCE CO.,)
Defendant(s).)
Case No. 4:05CV02399 ERW

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiffs' Seventh Motion to Compel Discovery [doc. #171] and Plaintiffs' Motion for Leave to File Motion to Compel Out of Time [doc. #198].

The Court held a hearing on Plaintiffs' Seventh Motion to Compel Discovery on October 3, 2007. Following that hearing the Court ordered a status conference to be held on this date, in order to allow Defendants an opportunity to perform a second search for the requested documents. The Court held a status conference on this date and also heard arguments on Plaintiffs' Motion for Leave to File Motion to Compel Out of Time.

The parties represented to the Court that at this time none of the requested documents have been produced. Defendants represented that they were still in the process of completing the relevant search of the requested documents. Based on these representation the Court orders that Plaintiffs' Seventh Motion to Compel is granted in part. Defendants must produce all employee handbooks from 1971 to the present, in their entirety. Furthermore, Defendants shall produce those portions of the Claims Processing Manuals¹ which contain information that is relevant or

¹Alternately referred to as Preference Manuals.

that is reasonably calculated to lead to relevant evidence. These materials shall be produced no later than October 31, 2007. The Court further notes that Defendants have not yet complied with this Court's September 12, 2007 order granting in part Plaintiffs' Sixth Motion to Compel. Defendants shall fully comply with this Court's September 12, 2007 order no later than October 31, 2007. Defendants failure to comply will all orders of this Court will result in severe sanctions.

The Court will now address Plaintiffs' Motion for Leave to File Motion to Compel Out of Time. All motions on discovery were to be filed no later than September 11, 2007. Plaintiffs latest motion was not filed until October 18, 2007. Plaintiffs have not provided a compelling reason why leave should be granted to file the motion out of time, and therefore the motion is denied.

Lastly, the Court notes that concerns were raised during the hearing regarding the scheduling of the case at bar. The case is set for trial on December 3, 2007. All pretrial compliance is due by November 13, 2007, and all motions in limine due by November 18, 2007. A final pretrial conference is to be held on November 28, 2007. These scheduling deadlines remain in place. The parties have repeatedly requested extensions of time for filing dispositive motions in this case. The Court has allowed these extensions, however, the Court has also advised the parties that this limits the Court's ability to decide the pending motions for summary judgment prior to pretrial compliance being due. The Court recognizes that this places some hardship on the parties, however, the Court does not wish to delay the final disposition of the case.

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' Seventh Motion to Compel [doc. #171] is **GRANTED in part and DENIED in part.** Defendants shall produce all Employee Handbooks

after 1971. Defendants shall also produce those portions of all preference manuals containing information that is relevant or which is reasonably calculated to lead to relevant information. These documents are to be produced no later than October 31, 2007.

IT IS FURTHER ORDERED that Plaintiffs' Motion for Leave to File Motion to Compel Out of Time [doc. #198] is **DENIED**.

IT IS FURTHER ORDERED that Defendants shall comply with all orders of this Court to produce documents, no later than October 31, 2007. Failure to do so will result in severe sanctions.

Dated this 19th Day of October, 2007.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE